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**Eric M. McLeod**

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Email [emmcleod@michaelbest.com](mailto:emmcleod@michaelbest.com)

February 24, 2012

**VIA ECF**

Douglas M. Poland  
Dustin B. Brown  
Godfrey & Kahn S.C.  
One E. Main Street, Suite 500  
P.O. Box 2719  
Madison, WI 53701-2719

Re: Baldus, et al. v. Brennan, et al. (Case No. 11cv562)

Dear Doug:

We are in receipt of your letter dated February 22, 2012, a copy of which is attached, and this letter is our response. On February 17, 2012, we spoke with Attorney Troupis about the Court's order of February 16, 2012, and indicated we would be producing additional documents that had not been previously produced on grounds of attorney-client privilege. Those additional documents were provided to you by e-mail transmission on February 17, 2012.

We understand Attorney Troupis was deposed about these matters on Wednesday, February 22, 2012. In speaking further with Attorney Troupis and his counsel following his deposition, it is our understanding that we have produced all responsive documents that are otherwise in the possession of Attorney Troupis and Troupis Law Office, LLC. Thus, we are not aware that any additional documents have been withheld by Attorney Troupis and Troupis Law Office, LLC.

Sincerely,

**MICHAEL BEST & FRIEDRICH LLP**

*/s/ Eric M. McLeod*

Eric M. McLeod

EMM:skt

Enclosure

cc: counsel of record via ECF

029472-0001\11037137.1

February 22, 2012

**VIA ECF**

Eric M. McLeod  
Michael Best & Friedrich LLP  
One South Pinckney Street, Suite 700  
Madison, WI 53703

*Baldus et al. v. Brennan et al.*  
U.S. Eastern District of Wisconsin Case No. 11-CV-562

Dear Eric:

I write to address a matter that arose during a hearing before the Court yesterday afternoon in this case. During colloquy between counsel and the Court discussing the completeness of the legislature's production of documents, the Court suggested that if we had any questions about the completeness of that production, we write to you and file our request by Electronic Case Filing. This letter sets forth that request.

Last Friday, February 17<sup>th</sup>, after you produced additional documents in nine e-mails sent to me, I asked you to certify "that you are not withholding any responsive documents on the basis of the assertion of any privilege – legislative, attorney-client, work product doctrine, or otherwise – or on any other grounds, such as relevance." (See letter of February 17, 2012, attached.)

You responded the same day in the attached e-mail, re-stating my request as one asking "whether we are withholding any documents responsive to the subpoenas issued to Mr. Ottman and Mr. Foltz on the basis of the assertion of any privilege or other grounds." You further responded: "We are not withholding any such responsive documents on the basis of any privilege or other grounds."

In my February 17<sup>th</sup> letter, I did not limit my certification request to only those documents responsive to the Foltz and Ottman subpoenas. As you know, on January 10, 2012, in response to the Court's order of January 3, 2012 (and, presumably, its previous orders of December 8, 2011 and December 20, 2011), you produced a significant number of documents contained on a CD. Among those documents were 628 pages of e-mails and other documents that appear to have come from Mr. Troupis's files, or those of Troupis Law Office LLC.

Eric M. McLeod  
February 22, 2012  
Page 2

Absent from your February 17<sup>th</sup> e-mail was a certification that the production of documents in the possession, custody, or control of Mr. Troupis and Troupis Law Office LLC. Given that the production of the 628 pages of files from Mr. Troupis occurred *before* the Court's February 16<sup>th</sup> Order, which resulted in the Court's release of the non-redacted materials that you had provided for the Court's *in camera* review, as well as the additional documents attached to your nine e-mails to me last week, we question whether additional documents that would be required to be produced pursuant to the Court's February 16<sup>th</sup> order are in the possession, custody, or control of Mr. Troupis or Troupis Law Office LLC.

Please either certify that all documents in the possession, custody, or control of Mr. Troupis and Troupis Law Office LLC have been produced, and that no documents required to be produced by this Court's four discovery orders (December 8<sup>th</sup>, December 20<sup>th</sup>, January 3<sup>rd</sup>, or February 16<sup>th</sup>) are being withheld for any reason. If additional documents have not been produced, please produce them immediately or provide us with a privilege log identifying such documents.

At the Court's suggestion, I am serving this request by Electronic Case Filing on all parties of record, as well as counsel for Mr. Troupis.

GODFREY & KAHN, S.C.

*s/ Douglas M. Poland*

Douglas M. Poland  
Dustin B. Brown

DMP:aeg

cc: Maria Lazar (By ECF)  
Patrick Hodan (By ECF)  
Daniel Kelly (By ECF)  
P. Scott Hassett (By ECF)  
Thomas L. Shriner, Jr. (By ECF)  
Peter G. Earle (By ECF)  
John B Tuffnell (By ECF)

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# **EXHIBIT 1**

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**From:** McLeod, Eric M (22257) [EMMcLeod@michaelbest.com]  
**Sent:** Friday, February 17, 2012 6:17 PM  
**To:** Poland, Douglas  
**Cc:** Daniel Kelly (dkelly@reinhartlaw.com); Patrick J. Hodan; Lazar, Maria S.; Scott Hassett (pshassett@yahoo.com); Shriner Jr., Thomas L.; James Olson; Peter G. Earle (peter@earle-law.com)  
**Subject:** RE: Attorney-client documents and attachments.

Doug,

I received your hand-delivered letter of today's date in which you have asked whether we are withholding any documents responsive to the subpoenas issued to Mr. Ottman and Mr. Foltz on the basis of the assertion of any privilege or other grounds. We are not withholding any such responsive documents on the basis of any privilege or other grounds.

EMM

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[www.michaelbest.com](http://www.michaelbest.com)

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**From:** McLeod, Eric M (22257)  
**Sent:** Friday, February 17, 2012 1:57 PM  
**To:** 'Poland, Douglas'  
**Cc:** Daniel Kelly (dkelly@reinhartlaw.com); Patrick J. Hodan; Lazar, Maria S.; Scott Hassett (pshassett@yahoo.com); Shriner Jr., Thomas L.; James Olson; 'Peter G. Earle (peter@earle-law.com)'  
**Subject:** Attorney-client documents and attachments.

Doug,

In light of the Court's order of February 16, we have determined that in all but two instances, the attachments to the emails identified on the privilege log were previously produced in the prior document production from Mr. Ottman and Mr. Foltz. However, rather than identifying them in the prior production, I am going to re-produce all of the attachments now, so that it is clear what attachment goes with what email. I will be forwarding those attachments in successive email messages. Each email from me will separately include the attachment(s) from each email on the privilege log.

Also, after review of the Court's order, we realized that there are additional responsive email communications between counsel and Mr. Ottman and/or Mr. Foltz that were not in the actual possession of Mr. Ottman and/or Mr. Foltz, but which were in the possession of counsel. Thus, those email communications should, arguably, be produced. We did not include them previously in the privilege log as our focus was on identifying documents within the possession of Mr. Ottman and Mr.

Foltz. However, in order to ensure that we are fully complying with the Court's order, we are producing those now. Those items are attached to this email.

EMM

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The information contained in this communication may be confidential, is intended only for the use of the recipient(s) named above, and may be legally privileged. If the reader of this message is not the intended recipient, you are hereby notified that any dissemination, distribution, or copying of this communication, or any of its contents, is strictly prohibited. If you have received this communication in error, please return it to the sender immediately and delete the original message and any copy of it from your computer system. If you have any questions concerning this message, please contact the sender.

## **EXHIBIT 2**

February 17, 2012

**BY HAND DELIVERY**

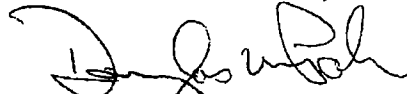
Eric M. McLeod  
Michael Best & Friedrich LLP  
One South Pinckney Street, Suite 700  
Madison, WI 53703

*Baldus et al. v. Brennan et al.*  
U.S. Eastern District of Wisconsin Case No. 11-CV-562

Dear Eric:

I wanted to confirm receipt of the nine e-mails, with attachments, that you sent earlier today. Please confirm that you are not withholding any responsive documents on the basis of the assertion of any privilege – legislative, attorney-client, work product doctrine, or otherwise – or on any other grounds, such as relevance.

GODFREY & KAHN, S.C.



Douglas M. Poland  
Dustin B. Brown

DMP:aeg

cc: Maria Lazar (By Hand Delivery)  
Patrick Hodan (By Hand Delivery)  
Daniel Kelly (By Hand Delivery)  
P. Scott Hassett (By Hand Delivery)  
Thomas L. Shriner, Jr. (By E-mail)  
Peter G. Earle (By E-mail)

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